

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JANE FIELY,	)	Case No. 3:13-cv-02005
	)	
Plaintiff,	)	Judge Carr
	)	Mag. Judge Armstrong
v.	)	
	)	
ESSEX HEALTHCARE	)	
CORPORATION and ATRIUM	)	
LIVING CENTERS, INC.,	)	
	)	
Defendants.	)	

**DECLARATION OF SUSAN KREUSER**

I, Susan Kreuser, declare and state as follows:

1. I am over 18 years of age and make this Declaration voluntarily and of my own free will.
2. I have personal knowledge of and am competent to testify as to the matters in this declaration.
3. I am employed with Atrium Centers, Inc. ("Atrium") as its Vice President of Human Resources. I have held this position since August 2010.
4. Atrium, through certain affiliated entities, including Atrium Living Centers, Inc. and Essex Healthcare Corporation ("Essex"), operates nursing home facilities in Ohio, Kentucky, Wisconsin and Michigan.

5. Essex does business under certain fictitious business names, including doing business as St. Mary's Living Center ("St. Mary's").

6. St. Mary's is an 85-bed nursing home facility located at 1209 Indiana Avenue in St. Mary's, Ohio.

7. In the normal course of my duties as Vice President of Human Resources, I am the chief human resources official responsible for supervision and administration of employment records maintained by Atrium for the individuals who work at St. Mary's.

8. Atrium maintains an Employee Handbook and various other policies that apply to individuals who work at St. Mary's.

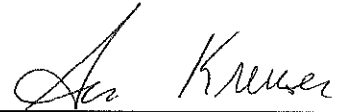
9. Attached hereto as Defendant's Exhibit JJ is a true and accurate copy of the Employee Handbook that was in effect and applied to individuals who worked at St. Mary's in April 2013.

10. In April 2013, Atrium's Regional Director of Operations Barry DeRossett informed me that St. Mary's' Director of Nursing ("DON"), Jane Fiely, was alleged to have engaged in inappropriate physical contact with another St. Mary's employee.

11. After receiving this information from DeRossett, I contacted Atrium's Regional Director of Human Resources, Bob Huenefeld, and requested that he conduct an investigation into the incident.

Pursuant to 28 U.S.C. § 1746, I, Susan Kreuser, state under the penalty of perjury that the foregoing is true and correct.

Executed on October 14, 2014, at Columbus, Ohio.

  
\_\_\_\_\_  
Susan Kreuser



**Atrium Centers Inc.**  
*Customer centered. Employee owned.*

**EMPLOYEE HANDBOOK**

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## **SECTION 1**

### **INTRODUCTION**

#### **1.1 Employment-At-Will**

**This Handbook is not a contract of employment, and nothing in this handbook shall be construed as a guarantee of continued employment or employment for any specific duration. Your employment at the Company is on an at-will basis, which means that either you or the Company can terminate your employment at any time without notice or cause.**

No representative of the Company, other than the President, has the authority to modify this policy or make any contrary representations to you. All employment agreements must be in writing and signed by both the President and the employee. Any statements contained in any employee handbooks, employment applications, Company materials, Company memoranda, Summary Plan Descriptions or other materials provided to employees in connection with their employment do not modify this policy.

#### **1.2 About Your Handbook**

This Handbook is a summary of the Company's current employment policies and procedures. It supersedes all prior handbooks. As a summary, the handbook does not contain every policy and procedure that may apply to your employment. Likewise, the Company recognizes that a Collective Bargaining Agreement governs any conflicts between a Collective Bargaining Agreement and the Employee Handbook.

**All policies and benefits in this Handbook, except the employment at-will status, are subject to change. The Company retains the exclusive right to change, interpret, or cancel any policy or benefit without notice.**

Please review the handbook carefully and keep it for future reference. If you are unclear about anything in this Handbook, ask your Supervisor or Administrator. While your Supervisor or Administrator is not authorized to change policy, their insight may be helpful.



## **SECTION 2**

### **EMPLOYMENT POLICIES**

#### **2.1 Equal Employment Opportunity**

The Company is an equal opportunity employer committed to dealing with employees in a nondiscriminatory manner based on job-related qualifications and abilities. All employment actions including recruitment, selection, compensation, promotion, demotion, transfer, training, discipline, termination, layoff, compensation, and benefits shall be made exclusively on the basis of job-related factors. Personnel decisions shall be made without consideration of age, gender, sexual orientation, color, race, creed, religion, national origin, disability, or other factors prohibited by law. Selection and placement decisions are based on skills, abilities, and potential of each applicant.

The Company will provide reasonable accommodations, upon request, to an employee's religious beliefs.

If you have a concern regarding possible discrimination, please contact your Supervisor, Administrator or the Corporate ASAP Hotline at 1-888-467-5597.

#### **2.2 Americans With Disabilities Act of 1990**

The Company complies with the Americans with Disabilities Act of 1990 and all applicable state and local laws prohibiting discrimination in employment against qualified individuals with disabilities.

If you have a disability that limits your ability to fully perform essential functions of the position you hold or to which you are applying, you may request an accommodation by notifying your Administrator. Upon receiving a request for accommodation, the Company will work with you to determine if a reasonable accommodation can be made.

You may be asked to provide a doctor's certification of the disability as well as the need for an accommodation.

If your accommodation request is denied, you may appeal the decision through the Open Door Policy in this Handbook.

#### **2.3 Sexual and Other Unlawful Harassment**

Sexual harassment is defined as follows: unwelcome sexual advances, requests for sexual favors, and other unwelcome or obnoxious verbal or physical conduct of a sexual nature. Behavior that may constitute harassment is applicable when:

1. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individual;

2. Submission to such conduct is made either explicitly or implicitly as a term or condition of employment; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Harassment, other than sexual harassment, is also prohibited. The Company prohibits harassing conduct even if it does not rise to the level of legally actionable conduct.

Any employee who is the victim of harassment or abuse should use the Open Door Policy or report incidents directly to:

- Your Supervisor or Manager
- Your Administrator
- Corporate ASAP Hotline at 1-888-467-5597.

You are not required to report the incident to your Supervisor or anyone in your line of organization, but may choose from the list above based upon the situation. Concerns may be verbal or written. All reports of discriminatory, harassing or retaliatory conduct will be investigated promptly and as confidentially as possible. You are expected to fully cooperate in any investigation.

Employees who are found to have violated any of these policies are subject to disciplinary measures, up to and including termination. Such violations may also result in personal legal and financial liability.

If you are dissatisfied with the investigation's outcome, you may follow the Company's Open Door Policy.

It is also inappropriate for anyone in a management role to enter into a close personal, dating or sexual relationship with a person directly or indirectly reporting to him or her.

## **2.4 Retaliation**

The Company recognizes that victims and observers of discrimination, harassment or retaliation are often reluctant to report such conduct for fear of being blamed, retaliated against or because it is difficult to discuss such matters with others. However, no employee should have to endure workplace discrimination, harassment or retaliation. The Company encourages, and expects, you to take responsibility to report discrimination, harassment or retaliation, whether you have experienced the behavior or observed it.

If you have a good faith belief that you, or any other employee, has been the victim of harassment, discrimination or retaliation in violation of these policies, promptly report the conduct to your immediate Supervisor, the Department Head, or the Administrator. If you believe circumstances warrant, you may report the conduct to your Regional or Corporate Human Resource Representative at 1-888-467-5597. Every Supervisor is responsible for promptly responding to any reported or suspected act of discrimination, harassment or retaliation.

The Company prohibits any form of retaliation against an employee for filing a bona fide complaint of harassment or discrimination or for assisting in a complaint investigation. However, if, after investigating any complaint of harassment or unlawful discrimination, the Company learns that the complaint is not valid, and was made for an improper motive, disciplinary action may be taken against the person who made the complaint.

## **2.5 Immigration Reform and Control Act**

The Company complies with the Immigration Reform and Control Act, which means we will only hire those individuals who are legally authorized to work in the United States. During the employment process you will be required to submit documentary proof of your identity and employment authorization, and complete the Immigration and Naturalization Service Form I-9.

## **2.6 Health Information Portability and Accountability Act (HIPAA)**

The Company provides medical care and is a covered entity under HIPAA Privacy Regulations. Each employee that views, creates or handles protected health information is responsible for complying with these Regulations and the Company's HIPAA Policy. The Company will provide training to employees so they fully understand the importance of maintaining the confidentiality of protected health information, and permitted disclosures and uses of that information. The Regulations require that the Company enforce compliance by sanctioning anyone who violates these rules. If you have any questions regarding these Regulations, policies or training, contact the Administrator or the Regional Human Resources Representative.

## **2.7 Drug and Alcohol-Free Workplace**

It is the obligation of the Company to provide a drug and alcohol free workplace. To that end, the Company's employees shall not:

1. Report to work after using drugs, or under the influence of alcohol; or
2. Manufacture, distribute, dispense, possess, sell, or use drugs or alcohol in the workplace, or while performing work or representing the Company either on or off Company property;
3. Manufacture, distribute, dispense, possess, sell, or use drugs or alcohol on nonworking time to the extent that, in the Company's opinion, it impairs an employee's ability to perform on the job or threatens the reputation or integrity of the Company.



"Drugs" and "Alcohol" include drugs and other mind-controlling substances, narcotics, alcoholic beverages, inhalants, prescription drugs and over-the-counter medications (except as noted below) and paraphernalia related to drug and substance use.

Prescription drugs being used upon order of a physician are exempted if used as prescribed and not abused. However, if you must use a prescription drug that may cause side effects such as drowsiness or impaired reflexes or reaction time, you must inform your Supervisor that you are taking such medication.

To minimize the danger that drug and alcohol use poses, the Company may conduct random searches or tests. Additionally, drug/alcohol testing may occur when your work performance, conduct, appearance, or behavior creates a suspicion that you may be impaired by drugs/alcohol. If you are involved in an on-the-job injury which results in either injury to you or another person requiring medical attention, or property damage, you may be required to take a drug/alcohol test. Individuals returning from a break in service exceeding three (3) months may be required to pass a drug/alcohol test. Any employee returning to work after the completion of a rehabilitation program may be required to pass a drug/alcohol test, as well as periodic tests thereafter. In the event the facility discovers missing medication, the facility may test the employee(s) who had access to the medication. Further, the Company uses post-offer, pre-employment drug testing. All offers of employment are conditioned upon the applicant's successful completion of the drug screen. Reasonable searches of Company premises and employees, including personal effects, may be used when there is reasonable suspicion that an employee is in violation of this policy.

Failure to submit to a drug/alcohol test, adulteration of a sample, or a test that reveals the presence of identifiable traces of alcohol or illegal drugs or abuse of a prescription drug, regardless of when or where the substance(s) entered your system, are considered serious misconduct and may result in disciplinary action up to and including termination.

Test results will be kept confidential. Information related to investigations conducted pursuant to this policy will be disseminated on a need-to-know basis in order to further the objectives of this policy and to comply with other Company policies or legal obligations.

## **2.8 Labor Representation**

The Company is dedicated to providing our employees with a quality work environment, competitive pay and affordable benefits.

We do not believe that employees benefit from outside interference in the relationship between you and your Supervisor or facility management, such as

being represented by a labor union. Union representation means that an outside third party (the union) stands between you and your Supervisor. This often makes it difficult to resolve employee issues in a positive, timely manner that is sensitive to individual employee circumstances. In addition, employees who choose labor unions to represent them are often surprised by the costs of "being union", e.g. union dues, fees, fines and assessments – as well as the complicated rules and risk of strikes that unions bring to the healthcare workplace.

During your employment at the Company, you may be asked by a co-worker or a union representative to sign a union authorization card. While the final decision is yours, please understand that signing a union card could lead to a requirement that you pay union dues in order to keep your job, and could also be the first step to a strike. Once you have signed the card, the union has no obligation to return it to you.

The Company does not believe that unionization is necessary or desirable for our employees, our residents and patients, or our facility, and we will vigorously strive to preserve an environment which nurtures the fulfillment of these goals.

## **2.9 Nurses as Supervisors**

The Company regards its nurses, both registered and licensed practical nurses, as Supervisors. The nurses are in charge of the unit or floor to which they are assigned. As a Supervisor, the nurse is responsible for enforcing the Company's policies and rules, monitoring and correcting job performance, periodically preparing written performance appraisals including recommending wage increases, scheduling lunch and rest breaks, disciplining and recommending termination of employees, and otherwise supervising the day-to-day activities on the floor.

## **2.10 Open Door Policy**

Most problems can be resolved by direct discussion with your Supervisor. In the case of nursing assistants, their direct Supervisor is the charge nurse on their unit. In the case of all other employees, their Supervisor is generally the department head. The Company's Open Door Policy is designed as a means for employees to resolve work related problems, without fear of retaliation or reprisal from Supervisors or co-workers. Generally, all employee concerns should be resolved through honest, direct discussions in an atmosphere of cooperation. The procedure set forth below is intended to provide the communication channel for you to seek resolution to your concerns or problems. While it is our goal to reach a resolution that everyone finds satisfactory, there is no guarantee that in each instance you will be satisfied with the result. The employee may use the Problem Resolution Form to state the details of the problem. You will, however, receive an explanation of the outcome. Below are the steps to follow in using the Open Door Policy.



***Step One***

Discuss your concerns with your Supervisor. The Supervisor will attempt to resolve the issue and respond within five (5) working days. If the employee is not satisfied with the Supervisor's response, or if a timely response is not received, the employee may request to see the next level of supervision. If the immediate Supervisor is directly involved in the problem, the employee may speak to the next level of management first.

***Step Two***

If the problem is not resolved at Step One then the employee may submit the concern to the Department Manager who will attempt to resolve the issue and respond in writing within five (5) days. If the employee is not satisfied with the response given in Step Two, or if a timely response is not received, the employee may request to see the Administrator of the facility.

***Step Three***

The Administrator will investigate the concern and discuss his/her findings with the employee within ten (10), working days. A written decision will also be furnished to the employee.

***Step Four***

If the response in Step Three is still unsatisfactory the employee may appeal to the Regional Director of Operations who will review the employee's concern. The appeal must be in writing and must include all previous documentation of the Open Door process. The Regional Director of Operations will provide a written decision to the employee within fifteen (15) working days. Decisions of the Regional Director or his/her designee are final.

At any point in the Open Door process, the employee may, in addition to directing concerns to a Supervisor, Department Manager, or Administrator, contact the Company's Compliance Line at 1-888-467-5597.

**SECTION 3**

**EMPLOYMENT PRACTICES**

**3.1 Physical Screenings**

All employees working in direct patient care areas are required by the Department of Health to have post employment offer physical examinations, including a skin test or chest x-ray for tuberculosis ("TB"). The employee must receive a negative result before employment can commence. Periodic physical screenings may also be required during employment.

### **3.2 Background Checks**

All offers of employment and continued employment are conditioned on satisfactory background checks, including all screenings required by applicable state laws.

### **3.3 Credentials**

If your position requires licensure or certification, it is your responsibility to acquire and maintain and provide appropriate documentation to the Company as a condition of being hired and maintaining employment. All regular full-time Company employees must be 18 years of age or older.

### **3.4 Employment of Relatives**

A relative of an employee will be considered for employment if the applicant is qualified for the position that is vacant and meets all required employment screens. However, relatives will not be employed in the same department and, under no circumstances, in a position where one falls under the supervision of the other. The Administrator must approve the hiring of the relative. A relative is defined as a spouse, parent, child, sister, brother, grandparent, or grandchild, and in-laws (mother, father, son, daughter, sister, brother). The employment of relatives of the Administrator, Director of Nursing Services, or any employee in a position with financial responsibility is prohibited without the written approval of the Regional Director of Operations and the Regional Human Resources Director.

### **3.5 Professional Image/Dress Code**

We desire to convey a professional image to our residents and visitors. As an employee of the facility you are expected to dress in a manner appropriate to the function of the job you perform. You may be required to wear a uniform. Your Supervisor determines appropriate dress with review by the Administrator. Excessive or dangling jewelry is not permitted because it may interfere with resident care. For the residents' safety, and your own, please maintain short and well manicured nails. We often recommend different colored attire or uniforms for our various departments to enable residents and visitors to better identify our employees.

### **3.6 Name Tags**

When you begin work, you will be provided with a nametag. The Company expects you to wear your nametag while performing your duties so that residents, visitors, and co-workers can easily identify you. Your nametag is the property of the Company and must be returned when you separate employment.



### **3.7 Introductory Period**

The first uninterrupted ninety (90) calendar days of your employment, whether you are new to the position, facility or Company, is an introductory period. During the introductory period your Supervisor will evaluate your performance to determine whether the position is right for you and you should determine whether the Company or position is right for you as well. The completion of your introductory period does not affect your status as an at-will employee.

### **3.8 Safety**

The safety, security and health of our residents, employees and guests are a major concern for the Company. All employees are required to do their part in assuring a clean, safe and healthy atmosphere in which to work, and are expected to promptly report any potential safety concerns to your immediate Supervisor. You will be required to follow the safety rules and procedures at your facility.

## **SECTION 4**

### **PAY AND JOB CLASSIFICATION**

#### **4.1 Employment Classifications**

All employees of the Company are classified in one of the following categories:

**Full-Time:** You are considered a full-time employee if you are hired, and are regularly scheduled, to work consistently 30 hours or more per week. Full benefits apply following the successful completion of the applicable benefits' waiting period.

**Part-Time:** You are considered a part-time employee if you are hired, and are regularly scheduled, to work consistently at least 20 hours, but less than 30 hours, per week. You are eligible for certain benefits following the successful completion of the required benefits' waiting period.

**Casual:** You are considered a casual employee if you are hired, and are regularly scheduled, to work consistently less than 20 hours per week. You are not eligible for benefits.

**PRN/Per Diem:** You are a PRN/Per Diem employee if you are hired for that position and you work on an as-needed basis. You are not eligible for benefits.

**Temporary:** You are considered a temporary employee if you are hired, and scheduled to work, as an interim replacement, or to work a predetermined schedule for a limited period of time.

Exempt (Salaried): Employees in certain management, supervisory, or professional classifications who are not eligible for overtime in accordance with the provisions of the Fair Labor Standards Act, or state laws.

Non-Exempt (Hourly): Employees who are eligible for overtime pay for overtime work in accordance with federal or state law.

#### **4.2      Time Records**

Because most employees are non-exempt and paid on an hourly basis, the exact hours that you work must be accurately recorded on your time card. Therefore you must clock in or out at the beginning and the end of your shift, for meal times, and when leaving the facility for personal reasons. If you forget to clock in or out you must notify your Supervisor immediately. Working off the clock is strictly prohibited.

You may not clock in earlier than seven minutes prior to the beginning of a shift. Do not clock out more than seven minutes after the end of your shift. Allow yourself enough time to report for work, in uniform, in your assigned department at your scheduled time.

Salaried exempt employees are required to keep records showing the days that they work.

#### **4.3      Overtime**

In accordance with federal and state law, non-exempt employees receive time and one-half time their base rate for all hours worked over forty (40) in a one week period. You must get prior approval from your Supervisor to work any overtime. You must record all hours worked on your time record.

#### **4.4      On-Call Time**

If you are asked to work "on-call" you will be paid for all hours from the time you arrive at the facility and begin work to the time you leave work, unless state law requires otherwise. Since "on-call" employees are not required to remain at the facility, but must be available to make reasonable response by telephone, or to come to the facility within a reasonable period of time, on-call time is not paid.

#### **4.5 Rest and Meal Periods**

Except where state law requires otherwise, you will receive a paid 10-minute rest break for each four consecutive hours worked. Rest breaks will be scheduled by your Supervisor. You must remain on the premises during your break.

If you are scheduled to work more than a five hour shift, you will also be provided a 30-minute uninterrupted, unpaid meal period. You must take your meal period away from your work area. You may not work during lunch breaks without approval of your Supervisor. If your meal break is interrupted by work, notify your Supervisor so that you can be paid for your entire lunch break, or given additional time for an uninterrupted, unpaid meal break. Under no circumstances are you permitted to leave unattended the resident care area to which you are assigned.

#### **4.6 Paychecks**

Our pay period is one (1) or two (2) weeks long. You will receive your paycheck every other week. Your check stub will list all deductions made for federal, state, and local taxes as well as other required and optional deductions. If an error occurs on your paycheck report the error to your Supervisor immediately. Your paycheck will be given only to you, unless you request, in writing, that it be given to someone else. Paychecks will not be mailed to last known addresses, except for final checks.

#### **4.7 Work Schedules**

Because the Company serves the needs of its' residents and patients 24 hours a day, 7 days a week and 365 days a year, work schedules are varied. Your Supervisor will inform you of your work schedule as well as meal and break periods. Schedule changes will be made as necessary. Your Supervisor will give you as much notice as possible of any such changes.

#### **4.8 Job Vacancies and Transfers**

Full-time nonexempt facility job vacancies will generally be posted in order to give employees a chance to apply before the general public is notified. You may be eligible for a vacant position if:

1. You are meeting the expectations of your current position;
2. You have satisfied the service requirement of your current position (generally 6 months);
3. You meet the qualifications for the vacant position; and
4. Your current Supervisor and new Supervisor recommend and approve the promotion or transfer.

Transfer requests to an affiliated facility may be granted under the following circumstances:



1. You have been employed at the Company for six (6) months or more;
2. Transfer dates will be determined at a date mutually agreeable by management at both facilities;
3. You are recommended by Company Management.
4. Your work record, experience, and ability meets the needs of the facility to which you wish to transfer; and
5. Your transfer request is approved by your Administrator and the Administrator of the facility where you wish to transfer.

If a transfer can be arranged, you will retain your original service date. All of your eligibility for benefits will remain intact; however, the wages and benefits at the other facility may differ from those in your current facility.

#### **4.9 Reductions-In-Force**

In the unlikely event that the Company finds it necessary to reduce or reorganize the working forces, the reduction-in-force shall be based on the qualifications, skill, ability and prior performance of employees and on the needs of the facility at the time of the reduction.

#### **4.10 Performance and Compensation Review**

A performance evaluation provides an opportunity for ongoing communication with your Supervisor about your job. At the conclusion of the introductory period, you should receive an introductory period performance evaluation from your Supervisor to discuss the strengths, weaknesses and areas for improvement in your job performance.

An annual performance evaluation (based on your anniversary date of hire or date of promotion) also will be conducted in conjunction with wage and salary reviews. Wage and salary increases typically are based upon your performance and the performance of your facility, office or operation. However, the decision to grant a wage increase is based on many factors and is not guaranteed with your review.

#### **4.11 Employee Access to Personnel Files**

The information in your personnel record is considered confidential. You have the right to review those documents in your personnel file that were previously shown to you, or which you have signed. To review your personnel file, you must submit a written request to your Supervisor. Inspection and photocopying of your personnel file must be with the approval of the Administrator, in accordance with applicable state law. Employees who have terminated, voluntarily or involuntarily, are not entitled to personnel records, except where required by law.

## **SECTION 5**

### **EMPLOYEE BENEFITS**

#### **Benefit Summary**

The Company is committed to sponsoring a benefits program for all eligible employees. In addition to receiving equitable wages and having an equal opportunity for professional development you may be eligible to enjoy other benefits which will enhance your job satisfaction.

A detailed summary of information describing your available benefits will be provided to you at the start of your employment. Set forth below is a brief summary of those benefits.

**The Company will periodically review the benefit programs and will make modifications as appropriate. The Company reserves the right to terminate or make changes to employee benefit programs, including but not limited to the types of benefits offered, insurance carriers, terms or levels of coverage, or employee contribution requirements. Employees will be notified of material changes in their insurance or other benefit plans. Open enrollment for the Company's health insurance program is conducted annually.**

Questions regarding your benefits should be addressed to your Supervisor or the individual responsible for benefit administration at the facility.

#### **5.1 Medical Insurance**

The Company is dedicated to the health and well being of both you and your family and has made medical coverage available to purchase for you, your spouse, and your children. While the Company pays for a portion of your insurance premium, you must also pay a portion through payroll deduction. The portion of the premium paid by you is on a pre-tax basis. A health coverage brochure describing coverage and/or a summary plan description with premium information will be provided upon your enrollment.

If you elect to have the coverage, you should enroll during the first thirty (30) days of employment. If you do not enroll for medical coverage initially and later decide you want it, you will have to wait until the next annual enrollment period unless you have a change in family status. If enrolling during the annual enrollment period, you may be required to provide evidence of good health.

As allowed by federal law, employees who separate from employment, or whose hours are reduced, are eligible to continue their medical insurance coverage for a limited time. You will receive written notification of your rights as applicable.

Part-time, Casual, PRN/Per Diem and employees electing Pay-in-Lieu of Benefits are not eligible for medical insurance.



## **5.2 Life Insurance**

You may be eligible for life insurance at no cost to you if you participate in the Medical Insurance Plan. This plan also includes accidental death; the amount provided is based on your job classification. Ask your immediate Supervisor for details.

Part-time, Casual, PRN/Per Diem and employees who elect pay-in-lieu of benefits are not eligible for life insurance.

## **5.3 Voluntary Life Insurance**

Voluntary Life Insurance, which includes an accidental death benefit, is available for a nominal fee.

## **5.4 401(k) Retirement Plan**

A retirement plan is provided to regular full-time and part-time employees, subject to certain provisions. The purpose of this benefit is to encourage you to save for the future. Ask your Benefit Coordinator for details of the program.

## **5.5 Workers' Compensation Insurance**

All employees are entitled to Workers' Compensation benefits. This coverage is automatic and immediate and protects you from an on-the-job injury. The Company pays for this job-injury insurance. If you cannot work due to a job-related injury or illness, Workers' Compensation insurance may pay your medical bills and provide a portion of your income until you can return to work. You must report to your immediate Supervisor any injury or accident while on duty. An accident report must be completed as soon as possible. Failure to report work-related injuries or accidents immediately may jeopardize workers' compensation benefits and may result in immediate dismissal.

## **5.6 Social Security Retirement Protection**

The United States Government operates a system of mandated insurance known as Social Security. As a wage earner, you are required by law to contribute a set amount of your pay to the trust from which benefits are paid. As your employer, the Company is required to deduct this amount from each paycheck you receive. In addition, the Company matches your contribution dollar for dollar, thereby paying one-half of the cost of your Social Security benefit.

## **SECTION 6**

### **TIME OFF BENEFITS**

#### **6.1 Paid Time Off (PTO)**

The Company offers paid time off (PTO) to full-time and part-time employees. PTO represents vacation, sick, and personal time off. PTO is based on length of service and begins to accrue on the first day of employment. However, you cannot take PTO until you have completed six (6) full calendar months of employment. PTO accruals based on years of service are detailed in your Summary of Benefits.

PTO time is earned every week for every hour that you work (not to exceed 40 hours per week). Except in the instance of illness or FMLA leave, all PTO must be scheduled and approved 30 days in advance with your Supervisor. Every effort will be made to grant your request for PTO at the time you desire. PTO must be utilized in at least half-shift increments. One day of PTO is based on your regular scheduled day. Example: an eight hour shift = 8 hours of PTO. However, PTO taken for reasons of illness or FMLA leave may be taken in as little as one (1) hour increments.

**PTO time may not be used if an employee is a No Call/No Show, or for late arrivals or early departures.**

Only earned PTO may be taken.

An employee who provides two (2) weeks' advanced written notice of resignation, and works that full period, will be entitled to pay for earned and unused PTO, not to exceed any banked hours up to a maximum of forty (40), and any earned and unused PTO accumulated for the current year. An employee separating from employment, through resignation, termination or any other reason, who does not provide and work a full two (2) weeks' advance written notice is not entitled to receive pay for any unused PTO.

PTO means paid time off. It is important that our employees actually take the time off from work. While employed, you cannot "cash-in" PTO time instead of taking the time off. Once an employee's bank of PTO has reached the maximum carry over of (40) hours, the employee will need to use their PTO time or forfeit the unused portion. Employees can roll over a maximum of (40) hours of PTO from year to year.

Part-time employees receive PTO at a pro-rata rate based on actual hours worked. Casual and PRN/Per Diem employees are not eligible for PTO benefits. Employees who choose pay-in-lieu of benefits are not eligible for vacation or PTO benefits.

#### **6.2 Holidays**

Because we are a service organization we must remain open on holidays. However, the Company observes certain holidays that are listed in your Summary of Benefits.



In order to be eligible for holiday pay you must have worked your full scheduled shifts before and after the holiday.

If you are a full-time employee and you are scheduled to work on a holiday, you will be paid as described in your Summary of Benefits. All eligible employees will receive non-worked holiday pay regardless of whether the employee worked or did not on the observed holiday. For non-worked holiday pay you will be paid your regular straight time hourly rate of pay for the number of hours you normally work in a day, not to exceed a maximum of eight (8) hours. Employees who work on the observed holiday will be paid their hourly rate of pay for the number of hours worked.

If you are a regular part-time employee who works a schedule of at least 20 hours per week, but less than 30 hours per week, and, are not scheduled to work on the holiday, you will be paid your basic rate equal to one-half of the full-time non-worked holiday pay, not to exceed four (4) hours.

You are eligible for holiday pay after completion of your Introductory Period. If you are a part-time employee and you are scheduled to work on a holiday you will be paid as described on the Summary of Benefits provided that you work the holiday and have completed your Introductory Period. Casual and PRN/Per Diem employees are not entitled to holiday pay. You are not eligible to receive holiday pay when you are on an unpaid leave of absence.

Each holiday will begin with the night shift (11:00 p.m.) on the eve of the actual designated day, and end at the close of the evening shift (11:00 p.m.) on the actual designated day. For the purpose of holiday calculation, the premium is paid for work on the actual holiday, not the observed day.

### **6.3 Leave of Absence**

The Company provides leaves of absence for various reasons, including medical, personal, military duty and jury duty extension in accordance with federal and state law. In addition to the leaves described below, some state laws require different types or duration of leaves for family matters and other reasons. The leave of absence policy in this handbook applies to all employees in every state where the Company has a facility. For information about leaves of absence that may apply in the state in which you work, please contact your Supervisor. Accepting other employment while on an approved leave of absence is strictly prohibited.

#### **General Eligibility and Provisions for All Leaves**

**Notice.** If the leave is planned in advance, you should provide your Supervisor at least 30 days written notice before your anticipated leave date.

**Documentation.** The appropriate forms are available from your facility and must be submitted for approval before taking any leave of absence, or as soon as possible if the leave is unforeseen. Medical documentation in support of the leave may be required.

**Leave Extension.** If you need an extension of the leave beyond the projected return date, you must notify your Supervisor in advance and receive approval. You may be asked to present medical documentation indicating your need for a leave extension. Extensions may be granted or denied.

**Leave Termination.** If you fail to return from leave as scheduled and have not been granted an extension, you may be deemed to have voluntarily resigned your position.

#### **6.4 Family and Medical Leave**

The Company will grant an unpaid leave of absence for a period of up to 12 weeks (or longer if required by applicable state or local law) in any 12 month period in accordance with the Family and Medical Leave Act.

**Reasons for Leave.** A leave under the FMLA may be granted to eligible employees for the following reasons:

- The care of a child after birth or adoption or placement in your home for foster care (eligibility for taking such leave expires 12 months after the child's birth or placement in your home)
- The care of your spouse, child or parent with a serious health condition, or
- Your own serious health condition that makes you unable to perform your job.

**Eligibility.** You are eligible for a leave under the FMLA when you have:

- Completed at least 12 months of service with the Company,
- Worked a minimum of 1,250 hours in the 12 month period preceding the leave, and
- Worked at a Company location that employs at least 50 employees at the location or within 75 miles of that location.

**Pay.** Unless otherwise required by state law, FMLA leaves are unpaid with the following exceptions. You must use earned PTO hours at the start of your leave. When PTO hours have been exhausted, the remainder of the leave will be unpaid. Disability or workers' compensation pay may also be available for a leave due to a personal health condition.

**Leave Time Allowed.** You are entitled to 12 weeks of unpaid leave within a 12 month period. The Company uses a rolling method to determine the 12 month period. Each time you use a portion of your FMLA

leave time, the amount of FMLA leave you have remaining is the balance of the 12 weeks you have not used during the immediately preceding 12 months.

Documentation. You must complete and submit the Family and Medical Leave Act application forms, which you can obtain from your facility.

Leaves for your own serious medical condition require certification of the condition from your physician. The Company may require you to submit to medical examinations by a health care provider designated by the Company, at its discretion and expense, at the beginning of, during, or at the end of the leave period.

Leaves requested to care for a covered family member require medical certification from the family member's health care provider attesting to the nature of the serious health condition, probable length of time treatment will be required, and the reason you are required to care for the family member.

Intermittent and Reduced Schedule Leave. You may take intermittent or reduced schedule leave for a serious health condition or to care for a covered family member. Intermittent leave is leave taken in separate blocks of time for the same medical condition or family care situation that are separated by time that you work. Leave taken to care for a child after birth, adoption or foster care placement may be taken intermittently only upon approval of the Company. The Company will follow all applicable federal and state laws in reviewing and approving such leave requests.

Return to Work. Before returning to work from medical leave for your own serious health condition, you may be required to submit a release form indicating that you are capable of returning to work and performing the essential functions of your position, with or without a reasonable accommodation. Please refer to Section 2.2 of this Handbook for more information. Failure to return to work after the expiration of your leave may be considered a voluntary resignation.

#### Status of Benefits under FMLA

Paid Time Off Benefits. You will not accrue PTO while on FMLA leave that is unpaid. You are not eligible for holiday pay while on leave.

Medical Coverage. Medical coverage will continue as applicable to you under the group medical plans for the 12 week period of the leave. You are responsible for paying your portion of the applicable employee contributions. You must pay your contributions before the first day of the month for each coverage month. If you fail to pay your contributions while on leave, the Company has the option of terminating your coverage or taking appropriate deductions from your pay upon your return to work.



If you extend your leave beyond 12 weeks, your benefits will terminate and you may elect COBRA coverage.

Job Reinstatement Rights under FMLA. You are entitled to your former position or an equivalent position with equivalent benefits, pay or other terms and conditions of employment upon your timely return from an approved FMLA leave.

Exceptions to this provision may apply if business circumstances have changed (e.g., if the position is no longer available due to job eliminations). Exceptions may also apply to certain key employees under certain conditions. If you are a key employee, you will be notified of such status before you take FMLA leave.

#### **6.4.1 Service Member Family Leave Act**

Employees who are the spouse, son, daughter, parent or nearest blood relative of a member of the armed forces, including a member of the National Guard or Reserves who are undergoing medical treatment, recuperation or therapy or is otherwise in a out-patient status or otherwise on a temporary disability retired list for a serious injury or illness, may be entitled to take up to twenty-six (26) work weeks of leave to care for that service member. Please see your Supervisor or Administrator for current Act details.

#### **6.5 Non-FMLA Medical and Personal Leaves**

Employees who are not otherwise eligible for an FMLA leave may apply for a medical leave of absence. Employees who have exhausted FMLA leave may also apply for a medical leave of absence. Employees may also request a personal leave of absence. The decision as to whether a medical or personal leave of absence will be granted is reserved to the Administrator. Leaves will be granted in the cases of maternity or as a reasonable accommodation to a disability. Non-FMLA and personal leaves are granted in 30-day increments, for a period not to exceed 60 days. During the leave, the employee's position is not held open. At the expiration of the leave, the employee returns to an open position for which he/she is qualified. Employees must use earned PTO at the start of the non-FMLA or personal leave. The remainder of the leave will be unpaid. Length of service credit, and the employee's due date for an annual performance review, will be adjusted by the amount of time taken by the employee on non-FMLA medical and personal leave. All general conditions concerning medical leaves are set out in Section 6.3.

#### **6.6 Military Leave**

The Company complies with all applicable laws regarding military leaves of absence. To request a leave of absence for military service, you must furnish your Supervisor with written proof of the service requirements two (2) weeks in advance of service dates, or as soon as otherwise feasible. You may also elect to use PTO during military service.

## **6.7 Bereavement Leave**

Employees will be granted up to three (3) consecutive scheduled days off, with the day of the funeral paid, to attend to the death of an immediate family member, provided that proper notification and documentation has been given to your Supervisor. Immediate family member is defined as: spouse, mother, father, child, sister, brother, grandparents, current mother-in-law, or current father-in-law.

## **6.8 Jury Duty**

If you are summoned for jury duty, the Company will pay the difference between your regular rate of pay, exclusive of any shift differential or other premium, and the jury duty pay. Such payments will be made for each scheduled day lost up to 30 days while serving on a jury. If you need additional time off for jury duty, you must request a leave of absence under Section 6.3 of the Handbook.

# **SECTION 7**

## **EMPLOYEE CONDUCT**

### **7.1 Professional Standards of Conduct**

As a member of the Company team, you are expected to conduct yourself and communicate with residents, patients, visitors and co-workers in a professional and respectful manner.

To help ensure that we have a common understanding of appropriate work conduct and communication, you are expected to know, understand and follow the policies in this handbook as well as any additional policies and procedures implemented at your facility. Listed below, are examples of behavior the Company considers to be gross or serious misconduct which may result in action up to and including immediate termination. **The list of violations is not intended to be exhaustive of all types of impermissible conduct and performance, and these rules are only examples of behaviors that are specifically unacceptable and do not alter the at-will status of your employment.**

1. Violating the rights of residents and patients, including abuse, neglect or misappropriation of property or failing to report to your Supervisor any instance in which you have reason to believe a violation of a resident's rights has occurred, or refusing to cooperate in an investigation of resident or patient abuse, neglect or other rules, laws or government regulations violations, excluding issues involving the National Labor Relations Board.
2. Failing to render care to a resident or patient.
3. Providing medical services or treatment that you are not authorized, certified or licensed to provide.



4. Violating Company policies, including but not limited to, harassment, discrimination, conflict of interest and drug-free workplace.
5. Engaging in any illegal conduct or committing an unlawful act at or on facility property, or behavior outside the workplace which brings discredit to the Company, or adversely affects the normal operation of the Company.
6. Falsifying employment documents, timekeeping records, medical records or any Company, governmental, resident records or giving false information to a person who's responsible for keeping accurate records.
7. Stealing or attempting to steal, unauthorized possession, destroying, intentionally damaging or misusing Company property or the property of residents, patients, visitors or co-workers, including confidential resident or patient information.
8. Refusing a job assignment or the directive of a facility Supervisor.
9. Smoking, eating, lounging or sleeping during work time or in an unauthorized area, or performing personal business during work time.
10. Engaging in horseplay, destructive practical jokes, or other dangerous acts.
11. Fighting or engaging in violent or threatening behavior of any kind.
12. Using obscene, abusive or threatening language.
13. Stopping work before the end of your shift or leaving your work area, or Company premises, without prior authorization while on duty.
14. Endorsing outside medical services to residents, patients or families without Company authority.
15. Engaging in inappropriate or unprofessional personal relationships with residents, patients, visitors, co-workers or those doing business with the Company.
16. Failing to obtain prior authorization for changes in the work assignment, schedules or overtime.
17. Disruptive or distracting behavior in the workplace.
18. Failing to report for scheduled work without calling the facility in advance (no call/no show) or working unauthorized overtime. Employees must give a minimum of two (2) hours' advance notice of a call-off.
19. Any action that is considered to be threatening the health or well-being of others, including failure to report communicable disease, or an unsafe or unhealthy condition or failure to follow the safety rules, procedures or standards at your facility.

20. Failure to perform or negligence in the performance of work duties, including deficient work quality and productivity, failure to follow safety rules and practices or contributing to unsanitary conditions.
21. All information concerning residents is considered confidential, medical information. No employee is to disclose, or discuss, with anyone a resident's medical condition or any other information about the resident. The exception to this rule is providing information to the Ombudsman, a government suveyor, or the resident's responsible party.
22. Unauthorized use of computer, photocopier, or other business equipment, or use of the computer to access the internet for nonbusiness reasons.
23. Bringing weapons of any type onto Company premises. No employee is to have a weapon of any type (i.e., gun, knife, chemical repellent, etc.) in the facility. Guns and knives are not allowed on Company property, including in an employee's car in the parking lot.

## **7.2 Attendance**

Regular, prompt attendance at work is an essential function of quality resident care. All employees are expected to report for work on time and to work all scheduled hours and days, including required overtime and mandatory meetings. Excessive tardiness or excessive unscheduled absenteeism, which includes patterned absenteeism, may result in discipline up to and including discharge and may negatively affect an employee's performance and compensation review. Any time that you are unable to report for work as scheduled, you must notify your Supervisor of the reason for and expected length of absence within your department's specific reporting times. The Company reserves the right to require medical certification for absence from work.

## **7.3 Employee Discipline/Discharge**

When an employee is issued discipline the employee will be notified of the reason for such discipline in writing. An employee will be required to sign the disciplinary notice as an acknowledgment that the employee received the discipline. An employee's signature does not necessarily indicate that the employee agrees with the discipline. A copy of the discipline will be placed in the employee's file and the employee will be offered a copy of the disciplinary notice.

## **7.4 Appeal of Disciplinary Action**

An employee who disagrees with any disciplinary action or discharge action can appeal the decision through the Open Door Policy in Section 2.10 of this Handbook.



## **7.5 Workplace Violence**

Safety and security of employees and residents is our first concern. The Company will not tolerate threatening, intimidating, malicious or violent behavior by anyone. Employees are responsible for informing their immediate Supervisor, Department Head or Administrator of any possible violation of this policy, or threats to safety in the workplace. Violations include threatening, intimidating, malicious or violent behavior that has occurred, or is threatened to occur, on facility property. Employees are responsible for reporting this behavior regardless of the relationship between the individual who initiated the inappropriate behavior and the person who was the target of the behavior. If you receive, or overhear, any threatening comments by anyone, you must immediately report it to your Supervisor, Department Head or Administrator.

Violations of this policy, including failure to report or fully cooperate in the Company's investigation, may result in disciplinary action up to and including discharge.

## **SECTION 8**

### **COMPANY PROPERTY, PREMISES AND RESOURCES**

#### **8.1 Solicitation & Distribution**

Solicitation of any kind by an employee to another employee is prohibited while either on working time or in patient care areas.

Distribution of literature of any kind by an employee to another employee is prohibited while on working time or in working or residential care areas.

Working time is all time when your duties require that you be engaged in work tasks, but does not include your own time such as meal periods, scheduled break times, time before or after a work shift, and personal cleanup time.

#### **8.2 Bulletin Boards**

In order to keep employees informed management uses bulletin boards to communicate information. Employees may not post in any way, any literature, printed or written materials, photographs or personal notices on facility/office bulletin boards, on the walls or elsewhere on Company property. Any posting that is not posted by management and/or that is not an official Company communication will be removed.

#### **8.3 Access to Facility**

It must be remembered the facility is our resident's home. Off-duty employees should not come to the facility, or be in the facility, except to meet with a member of management or visit the business office. Employees who have completed their shift, or are not working, should not use the employee break room or any other area of the facility.

**SECTION 9**

**SEPARATION OF EMPLOYMENT**

**9.1 Leaving The Company**

In order to maintain quality resident care, we expect resignations to be presented to your Supervisor in writing two (2) weeks prior to your departure. However, four (4) weeks notice is expected of Department Managers, Administrators, Directors of Nursing, and Regional Management. An employee's failure to give adequate notice, and to work the final weeks prior to departure, will result in disqualification for rehire status and loss of vacation or PTO time.

Prior to receiving your last paycheck, you must return to your Supervisor any Company property or equipment. Employees must also return all Company property upon separation from employment. Final payment of wages and other compensation will be made on the following regular payday or in accordance with state regulations, provided that all time records are submitted on time.

If you are enrolled in the group health plan, or voluntary term life plan, continuation of benefits may be available upon termination. Ask your Supervisor for assistance.

**9.2 Rehire**

Employees who leave our employ with proper notice, but who are reemployed by the Company within thirty (30) calendar days may be reinstated with continuous service as though they never left the Company, including a resumption of certain benefits, if applicable.